UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/812,502	03/30/2004	William Z. Zahavi	EMC-043PUS	3244

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

		Application No.	Applicant(s)
Office Action Summary		10/812,502	ZAHAVI ET AL.
		Examiner	Art Unit	
		William Wong	2178	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>08 August 2007</u>.

2a)☒ This action is **FINAL.**   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-16 and 18-40</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-16 and 18-40</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>14 July 2004</u> is/are: a)☐ accepted or b)☒ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

This action is in response to the communication filed on August 8, 2007.

- Claims 1, 18, 32, and 39 have been amended.

- Claim 17 has been cancelled.

- Claim 40 has been added.

Claims 1-16 and 18-40 are pending and have been examined. Previous specification

and claim objections have been withdrawn in view of amendments. Previous double

patenting rejections have been withdrawn in view of terminal disclaimers.

Information Disclosure Statement

1.   The listing of references in the specification is not a proper information disclosure

statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other

information submitted for consideration by the Office and MPEP § 609.04(a) states that

the list may not be incorporated into the specification, but must be submitted in a

separate paper. Therefore, unless the references have been cited by the examiner on

form PTO-892, they have not been considered.

Claim Rejections - 35 USC § 112

2.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly
> claiming the subject matter which the applicant regards as his invention.

3.   Claim 40 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite

for failing to particularly point out and distinctly claim the subject matter which applicant

regards as the invention. There is lack of antecedent basis for "claim 17" and "the

statistical bands".

Drawings

4.   For clarification, applicant submitted replacement drawings filed on July 14,

2004. Each drawing sheet submitted after the filing date of an application must be

labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37

CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be

notified and informed of any required corrective action in the next Office action. The

objection to the drawings will not be held in abeyance.

Further, it is noted that the content of certain drawings were modified in the

replacement drawings filed on July 14, 2004. For example, the toolbar in figure 3 of the

original drawings filed March 30, 2004 show above "Performance Health Summary"

containing the buttons "Summary" and "Root Cause", but the drawings submitted on

July 14, 2004 show the toolbar with "Alerts", "Properties", etc, which should have initially

been clearly pointed out by applicant. Therefore, examiner requires that *in addition to*

Replacement Sheets containing the corrected drawing figure(s), that applicant submit a

marked-up copy of each Replacement Sheet including annotations indicating the

changes made to the previous version. The marked-up copy must be clearly labeled as

"Annotated Sheets" and must be presented in the amendment or remarks section that

explains the change(s) to the drawings. See 37 CFR 1.121(d)(1). It is noted that such

changes may be subject to new matter issues and will be determined upon submission

of the annotations. Failure to timely submit the proposed drawing and marked-up copy

will result in the abandonment of the application.

Claim Rejections - 35 USC § 103

5.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

6.   Claims 1-16 and 18-40 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Fraenkel et al. (US 2002/0198985 A1) in view of Richardson (US

6,271,845 B1).

As per independent claim 1, Fraenkel teaches **a method of displaying alert**

information for objects in a network, comprising: receiving a selection of a first

one of the network objects (in paragraphs 92 and 107); **receiving a selection of a**

first one of a plurality of metrics associated with the first one of the network

objects (in paragraph 115); **receiving a selection of a first threshold for the first**

one of the plurality of metrics (in paragraph 116); **storing performance information**

for the network objects at predetermined time intervals (in paragraphs 114-115 and

193); **activating a first trigger when the first threshold is exceeded** (in paragraph

116); **identifying a potential root cause of a network problem** (in paragraphs 157

and 196); **and displaying statistical bands for a metric associated with the first one of the network objects** (in figures 13-16, 30, 34a, 34b, 36a and 37), but does not specifically teach **identifying the first one of the network objects as a potential root cause of a network problem, and displaying a topographical network map including the first one of the network objects**. However, Richardson discloses identifying a first one of the network objects as a potential root cause of a network problem (in column 2 lines 48-61), and displaying a topographical network map including the first one of the network objects (in figure 4 and in column 2 lines 15-38). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Fraenkel with the network object problem identification and topographical network map of Richardson to provide a user with a simple way to monitor and manage devices in a network.

As per claim 2, the rejection of claim 1 is incorporated and Fraenkel further teaches **receiving a setting for the first threshold for a predetermined time interval** (in paragraphs 102, 115, and 157).

As per claim 3, the rejection of claim 2 is incorporated and Fraenkel further teaches **wherein the predetermined time interval includes one or more of a day, each hour of a day, and historical data** (in paragraphs 102 and 157).

As per claim 4, the rejection of claim 2 is incorporated and Fraenkel further teaches **receiving an association of the first threshold with one or more days of the week** (in paragraphs 102 and 157).

As per claim 5, the rejection of claim 1 is incorporated and Fraenkel further

teaches **receiving threshold values for the first one of the plurality of metrics for a plurality of time intervals** (in paragraphs 102 and 157).

As per claim 6, the rejection of claim 5 is incorporated and Fraenkel further teaches **receiving threshold values for each hour of a day** (in paragraphs 78 and 116).

As per claim 7, the rejection of claim 1 is incorporated and Fraenkel further teaches **receiving a second threshold for the first one of the plurality of metrics** (in paragraph 115-116), **such that the first threshold provides a maximum and the second threshold provides a minimum** (in paragraph 252, *upper threshold* and *lower threshold*).

As per claim 8, the rejection of claim 1 is incorporated and Fraenkel further teaches **receiving a selection for the first threshold based upon a selection of historical data for a predetermined time period** (in paragraphs 213 and 239).

As per claim 9, the rejection of claim 1 is incorporated and Fraenkel further teaches **receiving a second one of the plurality of metrics associated with the first one of the network objects** (in paragraph 115), **receiving a selection of a second threshold for the second one of the plurality of metrics** (in paragraph 116), **and defining a trigger activation based upon a logical combination of the first and second thresholds** (in paragraphs 115-116, 202 and 206).

As per claim 10, the rejection of claim 1 is incorporated and Fraenkel further teaches **receiving a selection of a second one of the network objects** (in paragraphs 92 and 107), **receiving a selection of a first one of a plurality of metrics**

associated with the second one of the network objects (in paragraph 115),

receiving a selection of a second threshold for the first one of the plurality of

metrics associated with the second one of the network objects (in paragraph 116),

and defining a trigger based upon a logical relationship of the first and second

thresholds (in paragraphs 115-116, 202 and 206).

As per claim 11, the rejection of claim 1 is incorporated, but Fraenkel does not

specifically teach **identifying the potential root cause by associating a first visual**

indicator to the first one of the network objects. However, Richardson teaches

identifying the potential root cause by associating a first visual indicator to one of the

network objects (in column 8 lines 61-67 and column 9 lines 1-13). It would have been

obvious to one of ordinary skill in the art at the time the invention was made to modify

the teachings of Fraenkel with the network object visual indicator of Richardson to

provide a health status of a network object that can be quickly ascertained by the user.

As per claim 12, the rejection of claim 1 is incorporated and Fraenkel further

teaches **displaying a first region for a first type of network object and a second**

region for a second type of network object (in paragraph 107).

As per claim 13, the rejection of claim 1 is incorporated and Fraenkel further

teaches **displaying a plurality of cells corresponding to the time intervals** (in

figures 13-16).

As per claim 14, the rejection of claim 1 is incorporated, but Fraenkel does not

specifically teach **wherein certain ones of displayed network objects are**

expandable to show devices associated therewith. However, Richardson discloses

user-configurable group views wherein certain ones of displayed network objects are

expandable to show devices associated therewith (in column 4 lines 31-44 and column

5 lines 13-14). It would have been obvious to one of ordinary skill in the art at the time

the invention was made to modify the teachings of Fraenkel with the user-configurable

group views of Fraenkel to provide the user with a simple way to manage and monitor

the network objects.

As per claim 15, the rejection of claim 1 is incorporated and Fraenkel further

teaches **displaying performance data for the first one of the network objects** (in

paragraph 14).

As per claim 16, the rejection of claim 1 is incorporated and Fraenkel further

teaches **displaying the first threshold with stored performance information** (in

paragraph 125).

Claims 18-31 are the computer system claims corresponding to the method

claims 1-5, 8-13, and 15-16, and are rejected under the same reasons set forth in

connection with the rejection of claims 1-5, 8-13, and 15-16. A **processor, a display**

coupled to the processor, and **memory coupled to the processor including**

program instructions to perform the corresponding method claims are inherent in

order for the operator to use a web browser to set up monitoring sessions and view

performance data (in paragraph 13, 75-76, and 227).

Claims 32-38 are the article claims corresponding to the method claims 1-5 and

8-9 respectively, and are rejected under the same reasons set forth in connection with

the rejection of claims 1-5 and 8-9. A **storage medium having stored instructions to**

be executed by a machine to perform the corresponding method claims is inherent in order for the operator to use a web browser to set up monitoring sessions and view performance data (in paragraph 13, 75-76, and 227).

Claim 39 is the computer system claim corresponding to the method claim 1, and is rejected under the same reasons set forth in connection with the rejection of claim 1. A **processor, a display coupled to the processor, and a memory coupled to the processor** to perform the corresponding method claims are inherent in order for the operator to use a web browser to set up monitoring sessions and view performance data (in paragraphs 13, 75-76, and 227).

As per claim 40, as best understood by examiner, the rejection of claim 1 is incorporated and Fraenkel further teaches **a predetermined number of standard deviations from actual operating metric data averaged over time** (in paragraphs 250-251), but does not specifically teach displaying statistical bands corresponding to the number. However, Frankel discloses using a predetermined number of standard deviations to determine severity grades (in paragraph 251) and further displays different grades/levels as statistical bands in a graph (in figure 14, for example). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Fraenkel to include displaying statistical bands corresponding to the numbers for the purpose of allowing users to quickly and easily understand pertinent measurements determined by the system.

Response to Arguments

7.   Applicant's arguments filed August 8, 2007 have been fully considered but they are not persuasive.

Applicant argues in substance that Fraenkel does not allegedly teach "displaying statistical bands for a metric". Applicant cites "statistical bands refer to a *region* 506 defined by a spatial relationship to actual data 502 for one or more object metrics" in paragraph 39, italicizing the word "region" to seemingly imply that a statistical band is a region. However, the line prior to that sentence states "first and second statistical bands 504a,b", which from the figure are clearly just lines representing information on a graph. This is displayed in, for example, the figures cited previously in Fraenkel. Furthermore, the claims do not preclude a statistical band from being the actual performance data, which applicant also argues. It is noted that the features upon which applicant relies are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Applicant clearly recognizes this with the addition of new claim 40.

Bars in bar graphs and lines in line graphs, all read on the broad term "statistical bands", which are shown in the figures previously cited in Fraenkel, for example. Furthermore, assuming arguendo, if statistical bands only refer to a region defined by a spatial relationship to actual data for one or more object metrics, Fraenkel displays them as well. For example, in figure 14, the bar graph displays regions (the different shaded areas in a bar) defined by a spatial relationship to actual data (the height of each

shaded area) for one or more object metrics (service levels in percent). The line graph

displayed in figure 14 also shows regions (above and below the line) defined by a

spatial relationship to actual data (the line) for one or more object metrics (for one or

more object metrics).

Applicant states that "In view of the above, Applicant submits claims...18-39 are

patentably distinguishable over the cited references." However, claims 18-30 and 32-39

do not mention "displaying statistical bands" as discussed in "the above", making the

argument invalid. Such arguments fail to comply with 37 CFR 1.111(b) because they

amount to a general allegation that the claims define a patentable invention without

specifically pointing out how the language of the claims patentably distinguishes them

from the references. Moreover, they do not comply with 37 CFR 1.111(c) because they

do not clearly point out the patentable novelty which he or she thinks the claims present

in view of the state of the art disclosed by the references cited or the objections made.

Further, they do not show how the amendments avoid such references or objections.

As such, the claims stand rejected.

Conclusion

8.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to William Wong whose telephone number is 571-270-

1399. The examiner can normally be reached on M-F 7:30-5:00 EST with every other

Friday 7:30-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Stephen Hong can be reached on 571-272-4124. The fax phone number for

the organization where this application or proceeding is assigned is 571-273-8300.
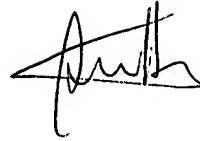
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/William Wong/

STEPHEN HONG
SUPERVISORY PATENT EXAMINER